

Hon'ble Irshad Hussain, J.

Heard Sri N.C. Gupta learned counsel for the petitioner and Sri B.P. Nautiyal, learned counsel for the respondent.

Application to recall order dated 15.9.2003 has been moved on the ground that on that date none could appear for the petitioner and his stand could not be brought before the Court. Today hearing had been given to the learned counsel for the applicant. It is evident that by the order dated 26.3.2003, the arbitrator was required to enter into arbitration and to give an award within the stipulated period. If any of the party was not cooperating with the proceedings, the learned arbitrator could have given award on the basis of material available. If one of the party to the arbitration did not cooperate by producing any document such as a site order book still the arbitrator had power to deliver the award according to the law. In the event of non-cooperation by any of the party it could not be said that there has been willful disobedience of the order of the court. Hence this aspect of the matter had been considered while passing the order dated 15.9.2003 where by the contempt petition was dismissed. There being no willful disobedience of the order of the court the consequence is that a case of contempt of court was not made out. There is no justification to recall the order dated 15.9.2003. The application is dismissed.

(Irshad Hussain, J.)

Dated 9.10.2003

Rawat